

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JAMES L. ROBINSON,)	
#121865,)	
)	
Petitioner,)	
)	
v.)	CASE NO.
)	1:06-CV-1061-MHT
)	
JAMES DELOACH, WARDEN)	
<i>et al.</i> ,)	
)	
Respondents.)	

**RESPONSE TO ORDER TO SHOW CAUSE AS
TO WHY THE PETITIONER'S MOTION TO PRODUCE DOCUMENTS
SHOULD NOT BE GRANTED**

Come now the Respondents by and through the Attorney General of the State of Alabama and make the following response to the Court's Order to show cause why the petitioner's motion to produce documents should not be granted.

1. The Respondents deny that Robinson was sentenced to a term of imprisonment of 25 years with 15 years having been suspended.
2. Honorable Houston County Circuit Judge Sidney Edward Jackson accepted the Robinson's guilty plea in case number CC-98-1222.

3. Judge Jackson entered the Robinson's sentence into the case action summary in his own handwriting.

4. Judge Jackson has confirmed by affidavit that he sentenced the Robinson to 25 years' imprisonment, and that no portion of the sentences was suspended. (Exhibit A)

5. To the undersigned's knowledge, the guilty plea proceedings have never been transcribed.

6. The undersigned has located both Judge Jackson's court reporter at the time of the guilty plea and Judge Jackson's current court reporter. The former court reporter is out of state and is unavailable indefinitely, and the current court reporter has made every effort to locate the notes necessary to produce a transcript of the Robinson's guilty plea hearing. Such notes cannot be located. (Exhibit B)

7. Respondents assert that a transcript of the guilty plea hearing is not necessary to reach a determination in this cause, considering the affidavit of Judge Jackson (Exhibit A) and a review of the case action summary in this case. (Document 7, Exhibit A)

8. The Respondents assert that the case action summaries in these cases support the Respondent's position, not Robinson's. The case action summaries clearly show that Robinson was sentenced the 25 years' imprisonment with no portion suspended. (Document 7, Exhibit A)

CONCLUSION

Based on the foregoing, Robinson's motion to produce is due to be denied

EXHIBIT LIST

Exhibit A - Affidavit of Houston County Circuit Court Judge Sidney Edward Jackson.

Exhibit B - Affidavit of Chani Hickey, Official Court Reporter for Houston County Circuit Court Judge Sidney Edward Jackson.

Respectfully submitted,

Troy King, ID #KIN047

Attorney General

By-

s/Nancy M. Kirby

Nancy M. Kirby ID #KIR031

Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January, 2007, I electronically filed the foregoing Response and exhibits with the Clerk of the Court using the CM/ECF; and I hereby certify that I have mailed by United States Postal Service the foregoing (including all exhibits) to the following non-CM/ECF participants: James Lenwood Robinson, AIS #121865, 1290 Red Eagle Road A-10, Montgomery, AL 36110.

Respectfully submitted,

s/Nancy M. Kirby (KIR031)
Nancy M. Kirby (KIR031)
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_____)	

AFFIDAVIT

Comes now the Affiant, Judge Sidney Edward Jackson, and testifies
to this Honorable Court as follows:

1. I am currently a Circuit Judge for Houston and Henry Counties,
Alabama.
2. I am the same Circuit Judge who accepted the guilty pleas of the
above-named petitioner on May 4, 1999. The petitioner entered guilty pleas
in Case Numbers CC-98-1222, CC-98-1486, CC-98-1626, CC-98-1627, and
CC-98-1628.

3. I imposed sentences upon the petitioner as provided by law for his convictions on the same day that the petitioner entered his guilty pleas, May 4, 1999.

4. I personally wrote the petitioner's sentence, as applicable to each conviction, on the respective Case Action Summaries routinely maintained in each of the petitioner's case files by the Houston County Clerk of Court.

5. In Case Number CC-98-1222, the handwritten portion of the sentence, which I wrote, reads as follows:

"25 years under FHOA, 15 years thereof to run
concurrent with CC 88-125"

6. In Case Number CC-98-1486, the handwritten portion of the petitioner's sentence, which I wrote, reads as follows:

"25 years under FHOA concurrent with CC 98-
1222 and CC 88-125"

7. In Case Number CC-98-1626, the handwritten portion of the sentence, which I wrote, reads as follows:

"25 years under FHOA, 15 years thereof to run
concurrent with CC 98-1222 and CC 88-125"

8. In Case Number CC-98-1627, the handwritten portion of the sentence, which I wrote, reads as follows:

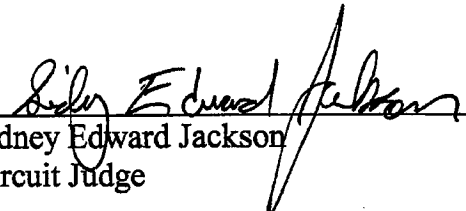
"25 years under FHOA, 15 years thereof to run
concurrent with CC 98-1222 and CC 88-125"

9. In Case Number CC-98-1628, the handwritten portion of the sentence, which I wrote, reads as follows:

“25 years under FHOA, 15 years thereof to run concurrent with CC 88-125 and CC 98-1222”

10. At no time did I suspend any portion of the petitioner's sentences in any of the five cases listed above. I intended the five sentences to be served concurrently with each other and concurrently with the fifteen years' imprisonment the petitioner had remaining on the sentence imposed upon him ten years earlier in case number CC-88-125.

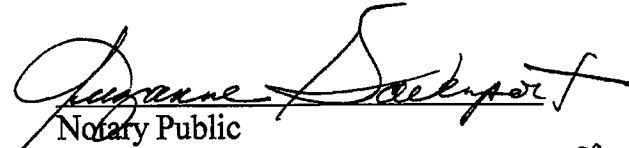
FURTHER AFFIANT SAYETH NOT.


Sidney Edward Jackson
Circuit Judge

STATE OF ALABAMA
COUNTY OF HOUSTON

Before me, the undersigned authority, a Notary Public in and for said County and State, personally appeared JUDGE SIDNEY EDWARD JACKSON, who is known to me and who, after being first duly sworn, doth depose and say that she has read the above and has voluntarily signed same in awareness of the contents thereof and that the facts set forth therein are true and correct as stated therein.

Sworn to and subscribed before me on this the ²⁶24 day of January, 2007.


Notary Public
My commission expires: 11-9-08

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V.

CASE NO.
1:06-CV-1061-MHT

JAMES DELOACH, WARDEN
et al.,

Respondents.

AFFIDAVIT

Comes now the Affiant, Chani Hickey, and testifies to this Honorable Court as follows:

1. I am currently the court reporter for Houston County Circuit Judge Edward Jackson.
2. I was not the court reporter when the petitioner in this case entered his guilty pleas before Judge Jackson. The court reporter at that time was Andrea Martin.
3. I have been in touch with Ms. Martin in an effort to locate the notes and disk containing the petitioner's guilty pleas. Ms. Martin is

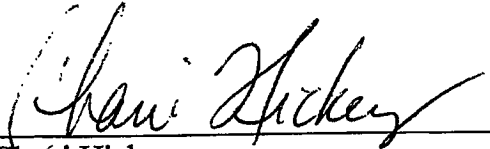
currently in North Carolina attending to a critically ill family member. She has been there for at least four weeks, and will remain there for an indefinite period of time.

4. I have performed a diligent search of the Houston County Courthouse in an effort to locate Ms. Martin's notes. However, the County has refurbished the courthouse within the past six years. During the refurbishing process, county inmates were used to perform some of the work and many of the boxes containing various court reporters' notes, property, and evidence were destroyed. Thus, I was unable to locate Ms. Martin's notes.

5. Ms. Martin has indicated to me that she may have the disk at her home in Alabama, but that she will not be returning for at least several more weeks and was unable to state specifically when she would return.

6. At this time, a transcript of the petitioner's guilty pleas cannot be produced.

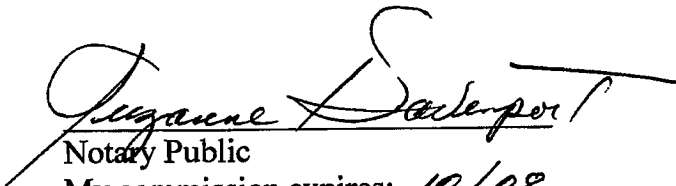
FURTHER AFFIANT SAYETH NOT.


Chani Hickey

STATE OF ALABAMA
COUNTY OF MONTGOMERY

Before me, the undersigned authority, a Notary Public in and for said County and State, personally appeared CHANI HICKEY, who is known to me and who, after being first duly sworn, doth depose and say that she has read the above and has voluntarily signed same in awareness of the contents thereof and that the facts set forth therein are true and correct as stated therein.

Sworn to and subscribed before me on this the 23rd day of January, 2007.


Notary Public
My commission expires: 10/08